IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

WP(C).No. 34391 of 2003(T)

PETITIONER:

THE TRAVANCORE RUBBER & TEA CO.LTD.,
PLANTATION HOUSE, PATTOM SIVARAMAKRISHNA IYER
ROAD, TRIVANDRUM, REP. BY ITS ROAD,
TRIVANDRUM, REP. BY ITS SECRETARY, T.P.NAIR.

BY ADV. SRI.JOSEPH MARKOSE
SRI.MITHUN MARKOS

RESPONDENTS:

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1. DEPUTY COMMISSIONER OF INCOMETAX,
CIRCLE I,
AYAKAR BHAVAN, KOWDIAR, TRIVANDRUM.

2. INSPECTING ASSISTANT COMMISSIONER(SPL),
OF AGRICULTURAL INCOMETAX, ERNAKULAM.

3. THE COMMISSIONER OF INCOME TAX(APPEALS),
THIRUVANANTHAPURAM.

BY ADV. SRI.P.K.R.MENON(SR.),SR.COUNSEL FOR IT
SRI.GEORGE K. GEORGE, SC FOR IT

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF ORDER DATED 1.11.2000 OF THE KERALA HIGH COURT IN OP 21817 OF 2000

EXT.P2 TRUE COPY OF CIRCULAR NO. 5/2003 DATED 22.5.2003 ISSUED BY CBDT

EXT.P3 TRUE COPY OF ASSESSMENT ORDER DATED 17.2.1994 FOR 1991-92 UNDER THE CENTRAL INCOME TAX ACT.

EXT.P4 STRUE COPY OF ASSESSMENT ORDER DATED 25.1.1995 FOR 1992-93 UNDER THE CENTRAL INCOME TAX ACT.

EXT.P5 TRUE COPY OF REVISED ASSESSMENT ORDER DATED 28.2.2003 FOR ASSESSMENT YEAR 1991-92

EXT.P6 TRUE COPY OF REVISED ASSESSMENT ORDER DATED 28.2.2003 FOR ASSESSMENT YEAR 1992-93

EXT.P7 TRUE COPY OF ASSESSMENT ORDER DATED 11.11.1993 OF THE FIRST RESPONDENT FOR THE YEAR 1991-92 UNDER AIT ACT.

EXT.P8 TRUE COPY OF ASSESSMENT ORDER DATED 7.12.1994 OF THE FIRST RESPONDENT FOR THE YEAR 1992-93 UNDER AIT ACT.

EXT.P9 TRUE COPY OF APPEAL DATED 18.4.2003 FILED BY THE PETITIONER BEFORE THE THIRD RESPONDENT FOR 1991-92

EXT.P10 TRUE COPY OF APPEAL DATED 18.4.2003 FILED BY THE PETITIONER BEFORE THE THIRD RESPONDENT FOR 1992-93

EXT.P11 TRUE COPY OF PETITION DATED 9.8.2003 FILED BY THE PETITIONER BEFORE THE FIRST RESPONDENT FOR 1991-92

EXT.P12 TRUE COPY OF PETITION DATED 9.8.2003 FILED BY THE PETITIONER BEFORE THE FIRST RESPONDENT FOR 1992-93

EXT.P13 TRUE COPY OF NOTICE DATED 17.10.2003 OF THE FIRST RESPONDENT TO BRITISH BANK AND MIDDLE EAST (HSBC), TRIVANDRUM.

EXT.P14 TRUE COPY OF NOTICE DATED 17.10.2003 OF THE FIRST RESPONDENT TO STATE BANK OF INDIA, TRIVANDRUM.

EXT.P15 TRUE COPY OF NOTICE DATED 17.10.2003 OF THE FIRST RESPONDENT TO INDIAN BANK, TRIVANDRUM.

EXT.P16 TRUE COPY OF SNOTICE DATED 17.10.2003 OF THE FIRST RESPONDENT TO BANK OF MAHARASHTRA, TRIVANDRUM.

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

W.P.C. NO. 34391 OF 2003

Dated this the 5th day of December, 2007

JUDGMENT

Even though this Court held that centrifuging of rubber latex is an industrial activity, the Board has issued notification against reopening of assessment for the period 2002-03 if the assesses have paid Agrl. Income tax. It is clear from the documents produced that petitioner was assessed for agrl. income tax and therefore petitioner is covered by the notification. In the circumstances, W.P. is allowed quashing the impugned proceedings.

(C.N. RAMACHANDRAN NAIR)
Judge